

Remarks in Support of Patentability

Applicant once again traverses the restriction requirement levied by the examiner and request reconsideration of the restriction requirement for the reasons for any of record. Applicant respectfully submits that the restriction requirement is misfounded and that the examiner has not made any reference whatsoever to the patentability prong of the distinctness test. Specifically, applicant respectfully submits that the examiner has misread the requirements of the Manual of the Patent Examining Procedure Chapter 800 and that such misreading is evidence by the examiner's contention as to the test for distinctness as articulated in the third sentence of the examiner's remarks in paragraph one under the heading "Detailed Action". Applicant again respectfully requests the examiner's careful consideration of all of Chapter 800 in the Manual of the Patent Examining Procedure and reconsideration and withdrawal of the restriction requirement in light of the same.

Respecting the information disclosure statement filed 21 March 2003 and the alleged inadequacy of the same for failing to list the patents, publications or other information submitted for consideration by the office, that information disclosure statement was styled as a "second supplemental information disclosure statement" and left applicant's counsel's office with a form PTO-1449 Modified listing the materials submitted with that information disclosure statement. A photocopy of that form PTO-1449 Modified is attached hereto. We respectfully request notification that this cures the problem with the 21 March 2003 Information Disclosure Statement. Applicant respectfully submits that the

Form PTO-1449 Modified must have become detached from the remainder of the information disclosure statement somewhere in the processing of the information disclosure statement in the United States Patent and Trademark Office before the information disclosure statement reached the examining attorney's desk. Any inconvenience that may have been caused by any procedures used by applicant's counsel's clerical personnel is subject to regret by applicant's counsel.

The claims have been amended to address the 35 USC 112 objections raised by the examiner. Applicant respectfully submits that the claims that have been rejected under 35 USC 112, when reconsidered in light of the amendments made to those claims herein, will be deemed of fully comport with the requirements of 35 USC 112. Accordingly, reconsideration and withdrawal of the 35 USC 112 objection is respectfully requested.

Applicant traverses the rejection of the claims made under 35 USC 102 on the basis of Siczek, U.S. patent 3,957,399 and request reconsideration of the same.

The invention is believed to be distinguishable over the art cited by the examiner. Even a quick glance at the structure of applicant's device reveals that it is significantly different from that of Figure 2 reference. Applicant's device features a reciprocating shaft removable through a hollow tube from the top of a pail or bucket or other container to which the device is attached by a quick disconnect down to the bottom of the pail or container where a diaphragm pump is located. The applicant's apparatus does not use any filler such as indicated as

40 in figure 2 of the '399 reference within the hollow tube nor is there any indication in the reference of any quick disconnect feature such as disclosed by applicant.

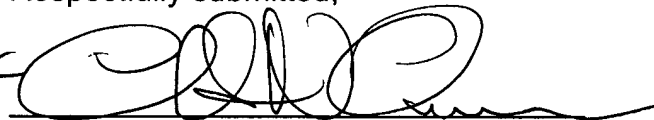
Applicant respectfully submits that in light of the foregoing, all of the claims pending in the application should be allowed and that upon reconsideration of the application and the claims pending therein and notice of allowance is in order. We respectfully solicit the same.

To the extent there is any fee required in connection with the receipt, acceptance and/or consideration of this paper and/or any accompanying papers submitted herewith, please charge all such fees to Deposit Account 50-1943.

Respectfully submitted,

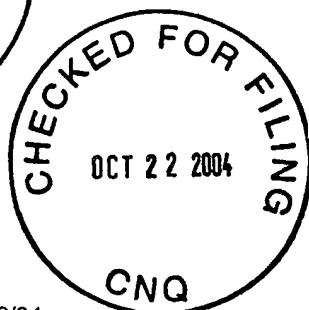
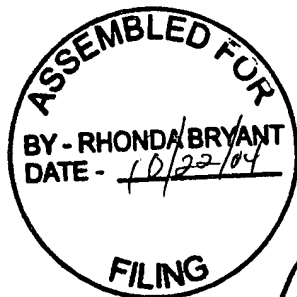
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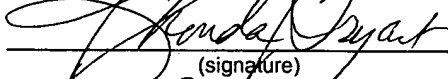
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**CERTIFICATE OF MAILING
UNDER 37 C.F.R. 1.8(a)**

I hereby certify that this paper, along with any paper referred to as being attached or enclosed, is being deposited with the United States Postal Service on the date indicated below, with sufficient postage, as first class mail, in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.


(signature)

BY: RHONDA BRYANT

DATE: OCTOBER 22, 2004